

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Cynthia H. Nordness, et al. Art Unit 3761  
Serial No. 10/642,850  
Filed August 18, 2003  
Confirmation No. 4040  
For PERMEABLE, CLOSE TO THE BODY LINER FOR SWIMWEAR  
Examiner C. Anderson

February 6, 2008

REPLY BRIEF

Applicants are submitting this Reply Brief in response to Examiner's Answer dated December 11, 2007.

In Examiner's Answer, the Office states that Applicants' argument that the Allen reference fails to teach or suggest a mesh liner separate from the body side liner is not found persuasive as the Office states Allen discloses two material layers on the body-facing side of the absorbent assembly, as shown in Figure 6. Specifically, the Office states that the mesh liner of Allen is designated by number 12', while the body side liner is the layer located between the liner 12' and the absorbent assembly 18' (shown but not numbered). The liner 12' comprises a porous, nonwoven material, and therefore fulfills Applicants' definition of 'mesh.' Furthermore, the liner 12' is attached at the periphery of the article, but unattached in the central portion, thus forming an unattached space 28' between the liner 12' and the absorbent assembly 18'.

Applicants respectfully disagree as instant claim 1 requires its absorbent garment to include a composite structure comprising: (1) liquid-permeable body side liner; (2) an outer cover; (3) an absorbent assembly between the body side liner and outer cover; and (4) a continuous mesh liner attached to the

composite structure adjacent to the body side liner with no intervening layers between the mesh liner and the body side liner. While Applicants' agree with the Office that "mesh" is defined as being a material, typically hydroentangled, meltblown, or spunbond, that has the ability to allow fluid and particulates of a specific size range to filter through (i.e., porous)<sup>1</sup>, the continuous mesh liner of claim 1 further must be **substantially impermeable** to bowel movement materials.<sup>2</sup> More specifically, as previously noted in the Appeal Brief, the mesh liner is configured as continuous to hold or contain bowel movement material, thereby preventing the bowel movement material from passing through the mesh liner of the absorbent garment, such as to reach the absorbent assembly. This configuration provides a barrier to the bowel movement material slipping out of the absorbent garment. The liner 12' of Allen simply is not designed to accomplish this, and in direct contrast, is specifically designed to allow flow through of waste materials.

Specifically, as noted in Allen, liner 12' is not continuous, but has an open passageway 21' to allow waste materials (e.g., bowel movement materials) to flow through to the absorbent assembly 18'; that is Allen's liner 21' cannot entrap bowel movement materials. Allen's liner 12' is simply not functionally equivalent to the continuous mesh liner required by Applicants' claim 1 and, thus, Allen does not provide each and every limitation of claim 1. As such, claim 1 is novel over the Allen reference. Furthermore, Applicants' claims are not obvious in view of Allen, alone or in combination with any one of the cited references, for the reasons set forth in the Appeal Brief.

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<sup>1</sup> See instant specification at page 11, lines 13-14.

**Conclusion**

In addition to the reasons set forth in Applicants' Appeal Brief, the rejections of the claims on appeal are in error for the reasons set forth above. Therefore, Applicants request that the Examiner's rejections of claims 1-7, 9-20, 22-30, 32-38, and 40 be reversed. Applicants do not believe that any fee is due in connection with this reply. However, the Commissioner is hereby authorized to charge any deficiency or overpayment of any fees to Deposit Account No. 01-2384.

Respectfully submitted,

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<sup>2</sup> See id. at page 20, lines 11-13.